

House File 541 - Introduced

HOUSE FILE 541
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 125)

A BILL FOR

1 An Act relating to licensed real estate professionals and real
2 estate disclosure statements.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REAL ESTATE LICENSEES

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Section 1. Section 543B.15, subsections 1, 2, 3, 4, 5, and 9, Code 2017, are amended to read as follows:

1. Except as provided in [section 543B.20](#) an applicant for a real estate ~~broker's or salesperson's~~ license must be a person whose application has not been rejected for licensure in this or any other state within twelve months prior to the date of application, and whose real estate license has not been revoked in this or any other state within two years prior to date of application.

2. To qualify for a real estate license as ~~a real estate broker or salesperson~~ a person shall be eighteen years of age or over. However, an applicant is not ineligible because of citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information.

3. *a.* An applicant for a real estate ~~broker's or salesperson's~~ license who has been convicted of an offense specified in [this subsection](#) shall not be considered for licensure until the following time periods have elapsed following completion of any applicable period of incarceration, or payment of a fine or fulfillment of any other type of sentence:

(1) For an offense which is classified as a felony, ~~two~~ an offense including or involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, or any other offense involving a criminal breach of fiduciary duty, five years.

(2) ~~Notwithstanding subparagraph (1), for offenses including or involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of~~

1 ~~fiduciary duty, five years.~~ For any offense not described in
2 subparagraph (1) involving moral turpitude, one year.

3 *b.* After expiration of the time periods specified in
4 paragraph "a", an application shall be considered by the
5 commission pursuant to [subsection 6](#) and may be denied on the
6 grounds of the conviction. An applicant may request a hearing
7 pursuant to [section 543B.19](#) in the event of a denial.

8 *c.* For purposes of [this section](#), "*convicted*" or "*conviction*"
9 means a guilty plea, deferred judgment from the time of entry
10 of the deferred judgment until the time the defendant is
11 discharged by the court without entry of judgment, or other
12 finding of guilt by a court of competent jurisdiction in this
13 state, or in any other state, territory, or district of the
14 United States, or in any foreign jurisdiction. A copy of the
15 record of conviction is conclusive evidence of such conviction.

16 4. An applicant for a real estate ~~broker's or salesperson's~~
17 license who has had a professional license of any kind revoked
18 or suspended or who has had any other form of discipline
19 imposed, in this or any other jurisdiction, may be denied a
20 license by the commission on the grounds of the revocation,
21 suspension, or other discipline.

22 5. A person who makes a false statement of material fact
23 on an application for a real estate ~~broker's or salesperson's~~
24 license, or who causes to be submitted, or has been a party to
25 preparing or submitting any false application for such license,
26 may be denied a license by the commission on the grounds of the
27 false statement or submission.

28 9. An applicant for an initial real estate ~~broker's or~~
29 ~~salesperson's~~ license shall be subject to a national criminal
30 history check through the federal bureau of investigation.
31 The commission shall request the criminal history check and
32 shall provide the applicant's fingerprints to the department
33 of public safety for submission through the state criminal
34 history repository to the federal bureau of investigation.
35 The applicant shall authorize release of the results of the

1 criminal history check to the real estate commission. The
2 applicant shall pay the actual cost of the fingerprinting and
3 criminal history check, if any. Unless the criminal history
4 check was completed within the two hundred ten calendar days
5 prior to the date the license application is received by
6 the real estate commission, the commission shall reject and
7 return the application to the applicant. The commission shall
8 process the application but hold delivery of the license until
9 the background check is complete. The results of a criminal
10 history check conducted pursuant to [this subsection](#) shall not
11 be considered a public record under [chapter 22](#).

12 Sec. 2. Section 543B.16, Code 2017, is amended to read as
13 follows:

14 **543B.16 Application forms.**

15 1. Every applicant for a real estate ~~broker's~~ license
16 shall apply in writing upon blanks prepared or furnished
17 by the real estate commission. The real estate commission
18 shall not require that a recent photograph of the applicant
19 be attached to the application. The real estate commission
20 shall not require an applicant to disclose criminal background
21 information on the application except for a conviction of an
22 offense described in section 543B.15, subsection 3.

23 2. Every applicant for a license shall furnish information
24 setting forth the applicant's present mailing address, ~~both of~~
25 ~~business and residence, a complete list of all former places~~
26 ~~where the applicant may have been engaged in business for a~~
27 ~~period of sixty days or more, during the last five years,~~
28 accounting for such entire period and electronic mail address.

29 3. ~~The commission shall prepare and furnish written~~
30 ~~application blanks for the salesperson's license requesting~~
31 ~~information as the commission may require. The commission~~
32 ~~shall not require that a recent photograph of the applicant be~~
33 ~~attached to the application. The application~~ Every applicant
34 for the a salesperson's license shall be accompanied by furnish
35 a written statement by the designated broker whose service the

1 applicant is about to enter recommending that the license be
2 granted to the applicant.

3 Sec. 3. Section 543B.19, Code 2017, is amended to read as
4 follows:

5 **543B.19 License denied — hearing.**

6 If the real estate commission, after an application in
7 proper form has been filed with ~~it~~ the commission, accompanied
8 by the proper fee, ~~shall deny~~ denies a license to the
9 applicant, ~~upon the applicant's application~~ applicant may apply
10 in writing, ~~and~~ within a period of thirty days of such denial,
11 and the applicant shall be entitled to a hearing as provided
12 in [section 543B.35](#).

13 Sec. 4. Section 543B.21, Code 2017, is amended to read as
14 follows:

15 **543B.21 ~~Nonresident license~~ Out-of-state licensee —**
16 **reciprocity.**

17 A ~~nonresident of this state~~ person holding a valid and
18 active license to engage in brokerage services in another
19 state may be licensed as a real estate broker or a real estate
20 salesperson in this state, upon complying with all requirements
21 of law and with all the provisions and conditions of this
22 chapter relative to resident brokers or salespersons and the
23 filing by the applicant with the real estate commission of a
24 certification from the state of original licensure signed by
25 the duly qualified and authorized official or officials of that
26 state that the applicant is there currently licensed, that no
27 charges against the applicant are there pending, and that the
28 applicant's record in that state justifies the issuance of a
29 license to the applicant in Iowa. The commission may waive
30 the requirement of an examination in the case of a ~~nonresident~~
31 ~~broker~~ an out-of-state licensee who is licensed under the
32 laws of a state having similar requirements and where similar
33 recognition and courtesies are extended to ~~licensed~~ real estate
34 ~~brokers and salespersons~~ licensees of this state.

35 Sec. 5. Section 543B.22, Code 2017, is amended to read as

1 follows:

2 **543B.22 ~~Nonresident's~~ Out-of-state licensee's place of**
3 **business.**

4 ~~A nonresident~~ An out-of-state licensee to whom a license
5 is issued upon compliance with all the other requirements
6 of law and provisions of **this chapter**, is not required to
7 maintain ~~a definite~~ an active place of business within this
8 state. ~~Provided that~~ However, the ~~nonresident, if a broker,~~
9 out-of-state licensee shall maintain an active place of
10 business within the state of ~~the nonresident's domicile, and~~
11 ~~that the~~ original licensure. The privilege of submitting a
12 certification of licensure certified to by the qualified and
13 authorized official or officials of the state of original
14 licensure, in lieu of the recommendations and statements
15 otherwise required, only applies to licensed real estate
16 brokers and real estate salespersons of those states under the
17 laws of which similar recognition and courtesies are extended
18 to ~~licensed real estate brokers and real estate salespersons~~
19 licensees of this state.

20 Sec. 6. Section 543B.23, Code 2017, is amended to read as
21 follows:

22 **543B.23 ~~Actions against nonresidents~~ out-of-state licensees.**

23 Every ~~nonresident~~ out-of-state licensee applicant, before
24 the issuance of a license in this state, shall file an
25 irrevocable consent that suits and actions may be commenced
26 against such applicant in the proper court of any county of
27 this state in which a cause of action may arise, by the service
28 of any process or pleadings authorized by the laws of this
29 state on the chairperson of the real estate commission, ~~said~~
30 such consent stipulating and agreeing that such service of
31 ~~such~~ process or pleadings on the commission shall be taken
32 and held in all courts to be as valid and binding as if due
33 service had been made upon ~~said~~ the applicant within the state
34 of Iowa. ~~Said~~ The instrument containing such consent shall be
35 authenticated by the seal ~~thereof~~ of the out-of-state licensee,

1 and if a corporation, ~~or~~ by the acknowledged signature of a
2 member or officer ~~thereof, if otherwise~~ of the corporation.
3 All such applications, except from individuals, shall be
4 accompanied by a duly certified copy of the resolutions
5 of the proper officers, or managing board, authorizing the
6 proper officer to execute the ~~same~~ application. In case any
7 process or pleadings mentioned in the case are served upon
8 the commission it shall be by duplicate copies, one of which
9 shall be filed in the office of the commission, and the other
10 immediately forwarded by certified mail to the main office
11 of the applicant against whom ~~or which~~ ~~said~~ such process or
12 pleadings are directed.

13 Sec. 7. Section 543B.29, subsections 2, 3, and 4, Code 2017,
14 are amended to read as follows:

15 2. The revocation of a designated broker's license shall
16 automatically suspend every license granted to any person ~~by~~
17 ~~virtue of the person's employment by the broker whose license~~
18 ~~has been revoked~~ who is employed or associated with the
19 brokerage, pending a change of ~~employer~~ the designated broker
20 and the issuance of a new license. The new license shall be
21 issued upon payment of a fee in an amount determined by the
22 commission based upon the administrative costs involved, if
23 granted during the same license period in which the original
24 license was granted.

25 3. A real estate ~~broker or salesperson~~ licensee who is
26 an owner or lessor of property or an employee of an owner or
27 lessor may have ~~the broker's or salesperson's~~ their license
28 revoked or suspended for violations of this section or section
29 543B.34, except section 543B.34, subsection 1, paragraphs "d",
30 "e", "f", and "i", with respect to that property.

31 4. A real estate ~~broker's or salesperson's~~ licensee's
32 license shall be revoked following three violations of this
33 section or section 543B.34 within a ~~five-year~~ three-year
34 period.

35 Sec. 8. Section 543B.31, Code 2017, is amended to read as

1 follows:

2 **543B.31 Place of business — branch license.**

3 Every ~~real estate broker~~ brokerage, except as provided
4 in section 543B.22, shall maintain a place of business in
5 this state. A brokerage may maintain more than one place of
6 business within the state and a broker may be the designated
7 broker of more than one branch office within the state. If
8 the ~~real estate broker~~ brokerage maintains more than one place
9 of business within the state, a ~~duplicate~~ branch license shall
10 be issued to such ~~broker~~ brokerage for each branch office
11 maintained. ~~Provided, that if such broker be a partnership,~~
12 ~~association, corporation, professional corporation, or~~
13 ~~professional limited liability company a duplicate shall~~
14 ~~be issued to the members or officers thereof, and a~~ A fee
15 determined by the real estate commission ~~in each case~~ shall be
16 paid for each ~~duplicate~~ branch license.

17 Sec. 9. Section 543B.32, Code 2017, is amended to read as
18 follows:

19 **543B.32 Change of location.**

20 Notice in writing, electronic or otherwise, shall be given
21 to the real estate commission by each licensee of any change
22 of principal business location, whereupon the commission shall
23 issue a new license for the unexpired period upon the payment
24 of a fee established by rule to cover the cost of issuing the
25 license.

26 Sec. 10. Section 543B.33, Code 2017, is amended to read as
27 follows:

28 **543B.33 ~~Salespersons Licensees~~ — change of ~~employment~~**
29 **brokerage employment or association.**

30 When any ~~real estate salesperson~~ licensee is discharged
31 or terminates employment or association with ~~the real estate~~
32 ~~broker by whom the salesperson is employed~~ a brokerage,
33 the ~~real estate~~ designated broker for the brokerage shall
34 immediately deliver, or mail, or electronically submit
35 to the real estate commission a copy of the real estate

1 ~~salesperson's~~ licensee's license on the reverse side of which
2 the ~~employing~~ designated broker shall set out the date and
3 ~~cause~~ of termination of ~~employment~~. The ~~real-estate~~ designated
4 broker at the time of ~~mailing~~ submitting a copy of the ~~real~~
5 ~~estate salesperson's~~ licensee's license to the commission shall
6 address a communication to the last known residence address
7 of the ~~real-estate salesperson~~ licensee stating that a copy
8 of the licensee's license has been delivered, ~~or~~ mailed, or
9 electronically submitted to the commission. A copy of the
10 communication to the ~~real-estate salesperson~~ licensee shall
11 accompany the copy of the license when ~~mailed or delivered~~
12 submitted to the commission. It is unlawful for any ~~real~~
13 ~~estate salesperson~~ a licensee to perform any of the acts
14 contemplated by **this chapter** either directly or indirectly
15 under authority of a license from and after the date of
16 receipt of a copy of the licensee's license by the commission.
17 The commission shall, upon presentation of evidence by the
18 ~~salesperson~~ licensee that the ~~salesperson~~ licensee has been
19 employed by or is associated with another ~~broker~~ brokerage,
20 issue another license for the balance of the current license
21 period showing each change of employment or association with
22 a brokerage. A fee as determined by the commission shall be
23 charged for the issuance of the license. Not more than one
24 license shall be issued to any ~~real-estate salesperson~~ licensee
25 for the same period of time.

26 Sec. 11. Section 543B.34, Code 2017, is amended to read as
27 follows:

28 **543B.34 Investigations by commission — licensing sanctions**
29 **— civil penalty.**

30 1. The real estate commission may upon its own motion and
31 shall upon the verified complaint in writing of any person,
32 if the complaint together with evidence, documentary or
33 otherwise, presented in connection with the complaint makes
34 out a prima facie case, request commission staff or any other
35 duly authorized representative or designee to investigate the

1 actions of any ~~real estate broker, real estate salesperson,~~
2 licensee or other person who assumes to act in either such
3 capacity within this state. The commission may assess civil
4 penalties against any person or entity, and may suspend or
5 revoke a license issued under this chapter at any time if the
6 licensee has by false or fraudulent representation obtained a
7 license, or if the licensee or other person assuming to act in
8 the capacity of a ~~real estate broker or real estate salesperson~~
9 licensee, except for those actions exempt pursuant to section
10 543B.7, is found to be guilty of any of the following:

11 a. Making any substantial misrepresentation.

12 b. Making any false promise of a character likely to
13 influence, persuade, or induce.

14 c. Pursuing a continued and flagrant course of
15 misrepresentation, or making of false promises through agents
16 or ~~salespersons~~ licensees or advertising or otherwise.

17 d. Acting for more than one party in a transaction without
18 the knowledge of all parties for whom the licensee acts.

19 e. Accepting a commission or valuable consideration as a
20 ~~real estate broker associate or salesperson~~ licensee for the
21 performance of any of the acts specified in this chapter, from
22 any person, except the ~~broker associate's or salesperson's~~
23 ~~employer, who must be a licensed real estate broker~~ licensee's
24 brokerage. However, a ~~broker associate or salesperson~~ licensee
25 may, without violating this paragraph, accept a commission
26 or valuable consideration from a corporation which is wholly
27 owned, or owned with a spouse, by the ~~broker associate or~~
28 ~~salesperson~~ licensee if the conditions described in paragraph
29 "i" are met.

30 f. Representing or attempting to represent a ~~real estate~~
31 ~~broker~~ brokerage other than the licensee's employer, without
32 ~~the express knowledge and consent of the employer~~ brokerage.

33 g. Failing, within a reasonable time, to account for or to
34 remit any moneys coming into the licensee's possession which
35 belong to others.

1 *h.* Being unworthy or incompetent to act as a ~~real-estate~~
2 ~~broker or salesperson~~ licensee in such manner as to safeguard
3 the interests of the public.

4 *i.* (1) Paying a commission or other valuable consideration
5 or any part of such commission or consideration for performing
6 any of the acts specified in **this chapter** to a person who is not
7 a licensed ~~broker or salesperson~~ under **this chapter** or who is
8 not engaged in ~~the real-estate business~~ brokerage services in
9 another state or foreign country, provided that the provisions
10 of **this section** shall not be construed to prohibit the payment
11 of earned commissions or consideration to any of the following:

12 (a) The estate or heirs of a deceased real estate licensee
13 when such licensee had a valid real estate license in effect at
14 the time the commission or consideration was earned.

15 (b) A citizen of another country acting as a referral
16 agent if that country does not license real estate brokers or
17 salespersons and if the Iowa licensee paying the commission or
18 consideration obtains and maintains reasonable written evidence
19 that the payee is a citizen of the other country, is not a
20 resident of this country, and is in the business of brokering
21 real estate in that other country.

22 (c) A corporation pursuant to subparagraph (2).

23 (2) A ~~broker~~ brokerage may pay a commission to a corporation
24 which is wholly owned, or owned with a spouse, by a ~~salesperson~~
25 ~~or broker associate~~ licensee employed by or otherwise
26 associated with the ~~broker~~ brokerage, if all of the following
27 conditions are met:

28 (a) The corporation does not engage in real estate
29 transactions as a third-party agent or in any other activity
30 requiring a license under **this chapter**.

31 (b) The ~~employing broker~~ brokerage is not relieved of any
32 obligation to supervise the ~~employed~~ licensee or any other
33 requirement of **this chapter** or the rules adopted pursuant to
34 this chapter.

35 (c) The ~~employed broker associate or salesperson~~ licensee

1 is not relieved from any personal civil liability for any
2 licensed activities by interposing the corporate form.

3 *j.* Failing, within a reasonable time, to provide information
4 requested by the commission as the result of a formal or
5 informal complaint to the commission which would indicate a
6 violation of **this chapter**.

7 *k.* Any other conduct, whether of the same or different
8 character from that specified in **this section**, which
9 demonstrates bad faith, or improper, fraudulent, or dishonest
10 dealings which would have disqualified the licensee from
11 securing a license under **this chapter**.

12 2. Any unlawful act or violation of any of the provisions of
13 this chapter by any ~~real estate broker associate or salesperson~~
14 licensee, employee, or partner or associate of a ~~licensed real~~
15 ~~estate broker licensee~~, is not cause for the revocation of
16 the license of any ~~real estate broker licensee~~, unless the
17 commission finds that the ~~real estate broker licensee~~ had
18 guilty knowledge of the unlawful act or violation.

19 3. If an investigation pursuant to **this section** reveals
20 that an unlicensed person has assumed to act in the capacity
21 of a ~~real estate broker or real estate salesperson licensee~~,
22 the commission shall issue a cease and desist order, and shall
23 impose a civil penalty of up to the greater of ten thousand
24 dollars or ten percent of the real estate sale price.

25 Sec. 12. Section 543B.46, Code 2017, is amended to read as
26 follows:

27 **543B.46 Trust accounts.**

28 1. Each real estate broker who is in the practice of
29 depositing funds in a trust account shall maintain a common
30 trust account in a ~~bank, savings association, or credit union~~
31 federally insured depository institution for the deposit of
32 all down payments, earnest money deposits, or other trust
33 funds received by the broker or the broker's salespersons on
34 behalf of the broker's principal, except that a broker acting
35 as a salesperson shall deposit these funds in the common trust

1 account of the broker for whom the broker acts as salesperson.
2 The account shall be an interest-bearing account. The interest
3 on the account shall be transferred quarterly to the treasurer
4 of state and transferred to the Iowa finance authority for
5 deposit in the housing trust fund established in section
6 16.181 unless there is a written agreement between the buyer
7 and seller to the contrary. The broker shall not benefit
8 from interest received on funds of others in the broker's
9 possession. A broker who is not in the practice of depositing
10 funds in a trust account shall not be required to maintain a
11 common trust account pursuant to this section.

12 2. Each broker required to maintain a trust account pursuant
13 to this section shall notify the real estate commission of
14 the name of each ~~bank, savings association, or credit union~~
15 the federally insured depository institution in which a trust
16 account is maintained and also the name of the account on forms
17 provided therefor.

18 3. Each broker required to maintain a trust account
19 pursuant to this section shall authorize the real estate
20 commission to examine each trust account and shall obtain the
21 certification of the ~~bank, savings association, or credit~~
22 ~~union~~ federally insured depository institution attesting to
23 each trust account and consenting to the examination and audit
24 of each account by a duly authorized representative of the
25 commission. The certification and consent shall be furnished
26 on forms prescribed by the commission. **This subsection** does
27 not apply to an individual farm account maintained in the
28 name of the owner or owners for the purpose of conducting
29 ongoing farm business whether it is conducted by the farm owner
30 or by an agent or farm manager when the account is part of
31 a farm management agreement between the owner and agent or
32 manager. **This subsection** also does not apply to an individual
33 property management account maintained in the name of the
34 owner or owners for the purpose of conducting ongoing property
35 management whether it is conducted by the property owner or

1 by an agent or manager when the account is part of a property
2 management agreement between the owner and agent or manager.

3 4. Each broker required to maintain a trust account pursuant
4 to this section shall only deposit trust funds ~~received on~~
5 ~~real estate or business opportunity transactions~~ as directed
6 by the principal of a transaction constituting dealing in real
7 estate as defined in [section 543B.6](#) in the common trust account
8 and shall not commingle the broker's personal funds or other
9 funds in the trust account with the exception that a broker may
10 deposit and keep a sum not to exceed ~~five hundred~~ one thousand
11 dollars in the account from the broker's personal funds, which
12 sum shall be specifically identified and deposited to cover
13 bank service charges relating to the trust account.

14 5. ~~A broker may maintain more than one trust account~~
15 ~~provided the commission is advised of said account as specified~~
16 ~~in [subsections 2 and 3](#) above.~~

17 6. ~~The commission shall verify on a test basis, a~~
18 ~~random sampling of the brokers, corporations, professional~~
19 ~~corporations, professional limited liability companies,~~
20 ~~and partnerships for their trust account compliance. The~~
21 ~~commission may upon reasonable cause, or as a part of or after~~
22 ~~an investigation, request or order a special report.~~

23 7. ~~The examination of a trust account shall be conducted by~~
24 ~~the commission or the commission's authorized representative.~~

25 8. ~~The commission shall adopt rules to ensure~~
26 ~~implementation of [this section](#).~~

27 Sec. 13. Section 543B.53, Code 2017, is amended to read as
28 follows:

29 **543B.53 Application of chapter.**

30 The provisions of [this chapter](#) which require successful
31 completion of a real estate education course before being
32 licensed as a real estate salesperson shall not apply to
33 ~~persons who hold real estate salesperson's licenses on July 1,~~
34 ~~1976 or to the issuance of new licenses to these persons under~~
35 ~~the provisions of [pursuant to section 543B.28](#).~~

1 Sec. 14. Section 543B.57, Code 2017, is amended to read as
2 follows:

3 **543B.57 Confirmation and disclosure of relationship.**

4 1. A licensee shall not represent any party or parties
5 to a transaction or otherwise as a licensee unless that
6 licensee makes a ~~disclosure to all parties to the transaction~~
7 ~~identifying which party that person represents in the~~
8 ~~transaction~~ an agency disclosure to the party or parties
9 represented by the licensee.

10 2. *a.* The disclosure required in **subsection 1** shall
11 be made by the licensee at the time the licensee provides
12 specific assistance to the client. A change in a licensee's
13 representation that makes the initial disclosure incomplete,
14 misleading, or inaccurate requires that a new disclosure be
15 made immediately.

16 *b.* A written disclosure is required to be made to a
17 licensee's client prior to an offer being made or accepted
18 ~~by any party to a transaction. The written disclosure shall~~
19 ~~be acknowledged by separate signatures of all parties to the~~
20 ~~transaction prior to any offer being made or accepted by any~~
21 ~~party to a transaction.~~

22 *c.* ~~For purposes of **this section**, "specific assistance" means~~
23 ~~eliciting or accepting confidential information about a party's~~
24 ~~real estate needs, motivation, or financial qualifications,~~
25 ~~or eliciting or accepting information involving a proposed~~
26 ~~or preliminary offer associated with specific real estate.~~
27 ~~"Specific assistance" does not mean an open house showing,~~
28 ~~preliminary conversations concerning price range, location, and~~
29 ~~property styles, or responding to general factual questions~~
30 ~~concerning properties which have been advertised for sale or~~
31 ~~lease.~~

32 3. ~~The written agency disclosure form shall contain all of~~
33 ~~the following:~~

34 *a.* ~~A statement of which party is the licensee's client or,~~
35 ~~if the licensee is providing brokerage services to more than~~

1 ~~one client as provided under section 543B.60, a statement of~~
2 ~~all persons who are the licensee's clients.~~

3 ~~b. A statement of the licensee's duties to the licensee's~~
4 ~~client under section 543B.56, subsections 1 and 2.~~

5 ~~c. Any additional information that the licensee determines~~
6 ~~is necessary to clarify the licensee's relationship to the~~
7 ~~licensee's client or customer.~~

8 ~~4. This section does not prohibit a person from representing~~
9 ~~oneself.~~

10 ~~5. The seller, in the listing agreement, may authorize~~
11 ~~the seller's licensee to disburse part of the licensee's~~
12 ~~compensation to other licensees, including a buyer's licensee~~
13 ~~solely representing the buyer. A licensee representing~~
14 ~~a buyer shall inform the listing licensee, if there is a~~
15 ~~listing licensee, either verbally or in writing, of the~~
16 ~~agency relationship before any negotiations are initiated.~~
17 ~~The obligation of either the seller or the buyer to pay~~
18 ~~compensation to a licensee is not determinative of the agency~~
19 ~~relationship.~~

20 Sec. 15. REPEAL. Section 543B.25, Code 2017, is repealed.

21 DIVISION II

22 REAL ESTATE DISCLOSURES

23 Sec. 16. Section 558A.1, Code 2017, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 01. "Agent" means an individual designated
26 by a transferee to accept delivery of a disclosure statement
27 from a transferor.

28 Sec. 17. Section 558A.1, subsection 4, paragraph e, Code
29 2017, is amended to read as follows:

30 e. A transfer made to a spouse, or to a person in the lineal
31 line within the third degree of consanguinity or affinity of
32 a person making the transfer.

33 Sec. 18. Section 558A.2, subsection 2, Code 2017, is amended
34 to read as follows:

35 2. The disclosure statement shall be made by personal

1 delivery, or by certified or registered mail, or electronic
2 delivery to the transferee or to the transferee's agent. If
3 delivery is electronic, acknowledgment of receipt shall be
4 provided pursuant to rules adopted by the commission. The
5 delivery may be made to the spouse of the transferee, unless
6 otherwise provided by the parties. If the disclosure statement
7 is not timely delivered, the transferee may withdraw the offer
8 or revoke the acceptance without liability, within three days
9 following personal delivery of the statement or five days
10 following electronic delivery or delivery by mail.

11 Sec. 19. Section 558A.4, Code 2017, is amended to read as
12 follows:

13 **558A.4 Required information.**

14 ~~1. a.~~ The disclosure statement shall include information
15 relating to the condition and important characteristics of the
16 property and structures located on the property, including
17 significant defects in the structural integrity of the
18 structure, as provided in rules which shall be adopted by the
19 real estate commission pursuant to [section 543B.9](#). The rules
20 may require the disclosure to include information relating
21 to the property's zoning classification; the condition of
22 plumbing, heating, or electrical systems; or the presence of
23 pests.

24 ~~b.~~ ~~The disclosure statement may include a report or written~~
25 ~~opinion prepared by a person qualified to make judgment based~~
26 ~~on education or experience, as provided by rules adopted by~~
27 ~~the commission, including but not limited to a professional~~
28 ~~land surveyor licensed pursuant to [chapter 542B](#), a geologist, a~~
29 ~~structural pest control operator licensed pursuant to section~~
30 ~~206.6, or a building contractor. The report or opinion on a~~
31 ~~matter within the scope of the person's practice, profession,~~
32 ~~or expertise shall satisfy the requirements of [this section](#) or~~
33 ~~rules adopted by the commission regarding that matter required~~
34 ~~to be disclosed. If the report or opinion is in response~~
35 ~~to a request made for purposes of satisfying the disclosure~~

1 ~~statement, the report or opinion shall indicate which part of~~
2 ~~the disclosure statement the report or opinion satisfies.~~

3 ~~2. a. A transferor subject to the requirements of section~~
4 ~~558.70 shall recommend in writing that the transferee obtain an~~
5 ~~independent home inspection report to provide full and complete~~
6 ~~information as required to be disclosed under ~~this section~~ and~~
7 ~~under rules adopted by the real estate commission pursuant to~~
8 ~~section 543B.9.~~

9 ~~b. A transferor subject to ~~section 558.70~~ shall provide~~
10 ~~the real estate disclosure statement required by this chapter~~
11 ~~at least seven days before the real estate installment sales~~
12 ~~contract is executed by all parties to the contract.~~

13 **Sec. 20. NEW SECTION. 558A.4A Installment sales contracts**
14 **— required disclosures.**

15 1. A transferor subject to the requirements of section
16 558.70 shall recommend in writing that the transferee obtain an
17 independent home inspection report to provide full and complete
18 information as required to be disclosed under this chapter and
19 under rules adopted by the real estate commission pursuant to
20 section 543B.9.

21 2. A transferor subject to section 558.70 shall provide
22 the real estate disclosure statement required by this chapter
23 at least seven days before the real estate installment sales
24 contract is executed by all parties to the contract.

25 **Sec. 21. Section 558A.6, Code 2017, is amended to read as**
26 **follows:**

27 **558A.6 Liability under the chapter.**

28 A person who violates ~~this chapter~~ shall be liable to a
29 transferee for the amount of actual damages suffered by the
30 transferee, ~~but subject to the following limitations:~~

31 ~~1. The provided, however, that the~~ transferor, or a broker
32 or salesperson, shall not be liable under ~~this chapter~~ for the
33 error, inaccuracy, or omission in information required in a
34 disclosure statement, unless that person has actual knowledge
35 of the inaccuracy, or fails to exercise ordinary care in

1 obtaining the information.

2 ~~2. The person submitting a report or opinion within the~~
3 ~~scope of the person's practice, profession, or expertise,~~
4 ~~as provided in [section 558A.4](#), for purposes of satisfying~~
5 ~~the disclosure statement, shall not be liable under this~~
6 ~~chapter for any matter other than a matter within the person's~~
7 ~~practice, profession, or expertise, and which is required by~~
8 ~~the disclosure statement, unless the person failed to use care~~
9 ~~ordinary in the person's profession, practice, or area of~~
10 ~~expertise in preparing the information.~~

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to real estate professionals and real
15 estate disclosures.

16 REAL ESTATE LICENSEES. The bill modifies several provisions
17 in Code chapter 543B, dealing with the licensure of real estate
18 brokers and salespersons.

19 The bill changes several references to "real estate broker",
20 "broker associate", or "salesperson" in Code chapter 543B to
21 "real estate licensee" or "licensee".

22 Code section 543B.15(3) prohibits an applicant convicted
23 of certain offenses from being considered for licensure until
24 certain time periods have elapsed. The bill provides that for
25 an applicant convicted of an offense classified as a felony, or
26 involving forgery, embezzlement, false pretenses, theft, arson,
27 extortion, conspiracy to defraud, or other similar offense,
28 or any other offense involving a criminal breach of fiduciary
29 duty, the applicant must wait five years. An applicant
30 convicted of any other offense involving moral turpitude must
31 wait one year. The bill provides that a copy of the record
32 of an applicant's conviction is conclusive evidence of the
33 conviction.

34 The bill prohibits the real estate commission from requiring
35 an applicant to disclose criminal background information on

1 an application except for a copy of conviction of certain
2 prescribed offenses. The bill requires an application to
3 include an applicant's present mailing address and electronic
4 mail address. A salesperson's application must include a
5 written statement from a designated broker.

6 Code section 543B.21 allows a nonresident to become licensed
7 as a broker or salesperson in Iowa if certain conditions are
8 met. The bill specifies that the person must hold a valid
9 and active license to engage in brokerage services in another
10 state. The bill changes "nonresident" to "out-of-state
11 licensee" with respect to such persons.

12 The bill repeals Code section 543B.25, which requires a
13 licensed broker to display their license in the broker's place
14 of business.

15 Code section 543B.29(2) provides for the automatic
16 suspension of a license granted by virtue of a person's
17 employment with a broker whose license is revoked. The bill
18 amends this provision to provide that the revocation of a
19 designated broker's license automatically suspends a license
20 granted to a person associated with the brokerage.

21 Code section 543B.29(4) provides that a license must be
22 revoked following three violations of Code section 543B.29 or
23 543B.34 within a five-year period. The bill changes this to a
24 three-year period.

25 Code section 543B.31 requires a licensed broker to maintain
26 a place of business in this state and allows a broker to obtain
27 a duplicate license for each additional branch office. The
28 bill changes "broker" to "brokerage" and specifies that a
29 brokerage may maintain more than one place of business in the
30 state and a broker may be the designated broker of more than
31 one branch office in the state. The bill requires a brokerage
32 to obtain a branch license, instead of a duplicate license, for
33 each additional branch office.

34 The bill allows a licensee to provide electronic
35 notification to the real estate commission for a change to a

1 licensee's principal place of business location, as required
2 in Code section 543B.32.

3 Code section 543B.33 requires a broker to notify the
4 real estate commission of any change of employment for a
5 licensed salesperson and mail the salesperson's license to
6 the commission. The bill broadens this to include a change
7 of employment or association for any licensee at a brokerage,
8 and requires the designated broker to provide such notice.
9 The bill allows the designated broker to send a copy of the
10 licensee's license, rather than the actual license, which can
11 be delivered, mailed, or submitted electronically.

12 The bill provides that the real estate commission may assess
13 civil penalties against any person or entity for conducting
14 investigations pursuant to Code section 543B.34.

15 Code section 543B.46 requires a licensed broker to maintain
16 a common trust account in a bank, savings association, or
17 credit union. The bill changes this to require a broker
18 to maintain a common trust account in a federally insured
19 depository institution. A broker not in the practice of
20 depositing funds in a trust account is not required to do so.
21 The bill increases the amount of personal funds a broker may
22 deposit in the common trust account from \$500 to \$1,000. The
23 bill removes subsections 5 through 8 in Code section 543B.46.

24 Code section 543B.53 provides that education requirements
25 for licensure as a salesperson do not apply to salespersons
26 licensed on July 1, 1976, or to the issuance of new licenses
27 to such salespersons upon renewal. The bill removes reference
28 to salespersons licensed on July 1, 1976, providing that the
29 education requirements do not apply to licensed salespersons
30 seeking license renewal.

31 Code section 543B.57 requires licensees to provide written
32 agency disclosure statements when representing a party to
33 a real estate transaction. The bill specifies that such
34 disclosure must be made to a licensee's client prior to an
35 offer being made or accepted. The bill removes the requirement

1 for a disclosure to be signed by all parties prior to an offer
2 being made or accepted. The bill removes the definition of
3 "specific assistance" in Code section 543B.57(2)(c). The
4 bill removes subsections 3 through 5 in Code section 543B.57,
5 including the requirements of the written agency disclosure
6 form.

7 REAL ESTATE DISCLOSURES. The bill modifies provisions in
8 Code chapter 558A, which requires real estate disclosures to be
9 made before the transfer of certain real estate property.

10 The bill defines "agent" in Code section 558A.1 to mean an
11 individual designated by a transferee to accept delivery of
12 a disclosure statement from a transferor. The bill changes
13 the exemption to the definition of "transfer" for spouses
14 or related persons to specify that the exemption applies to
15 persons within the third degree of consanguinity or affinity.

16 The bill allows a real estate disclosure statement to be
17 made by electronic delivery in addition to personal delivery,
18 or by mail, and to the transferee's agent in addition to the
19 transferee. If delivery is electronic, acknowledgment of
20 receipt shall be provided by rules adopted by the real estate
21 commission.

22 The bill removes the provision allowing a disclosure
23 statement to include a report or written opinion by a qualified
24 professional from Code section 558A.4(1)(b). The bill removes
25 the limitation on liability for a qualified professional who
26 submitted a report from Code section 558A.6.

27 The bill strikes Code section 558A.4(2), which requires the
28 transferor in an installment sales contract to provide certain
29 disclosures. However, the language of Code section 558A.4(2)
30 is incorporated into new Code section 558A.4A.